HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE G.V.SEETHAPATHY

WRIT PETITION NO.15106 of 2006

Between:

Rahul Singhal S/o late G.S.Sarray, R/o 408, Tulsi Apartments, Srinagar Colony, Hyderabad.

…Petitioner

A n d

The State of Andhra Pradesh rep. by the Principal Secretary, Environment, Forest, Science & Technology (FOR-II) Department, Secretariat Buildings, Hyderabad and others.

…Respondents

:: **O R D E R** ::

Counsel for the Petitioner : Sri V.Raja Gopal Reddy

Counsel for respondents : Government Pleader for Forests

27th July, 2006

Per G.S.Singhvi, CJ

In this petition filed in the name of public interest litigation, the petitioner has prayed for issue of a mandamus to the respondents to allow him and other persons to use K.B.R. National Park, Road No. 2, Banjara Hills, Hyderabad without charging fee.

In the affidavit filed by him, the petitioner has referred to the judgment of the Supreme Court in **M.C.Mehta v. Union of India**[1] and averred that

he has a fundamental right to pollution free air without any restriction and, therefore, the decision of the respondents to charge fee from the persons using K.B.R. National park is liable to be declared unconstitutional. He has averred that the park was established in the land declared as surplus under the Urban Land (Ceiling and Regulation) Act, 1976. His grievance is that even though every citizen is entitled to use the park and enjoy clean air and fresh atmosphere, the respondents have arbitrarily restricted entry in the park by imposing fee. In paragraph 7, he has averred that the rate of fee was fixed at Rs.250/- per annum vide G.O.Ms.No.53 dated 23-6-2001, but after five years it has been raised to Rs.1000/- per annum, which is exorbitant and arbitrary. He has also referred to the example of the decision taken by the Government of Maharashtra not to charge fee from the persons using the park in the city of Bombay and has prayed that the respondents should be directed to adopt similar course.

We have heard Sri V.Rajagopala Reddy, learned advocate for the petitioner and perused the record. In the context of the averments contained in the affidavit of the petitioner, we made enquiries from the learned counsel about the occupation/vocation of the petitioner. In reply Sri Reddy gave out that his client is a consultant. However, he could not disclose the annual income of his client. Shri Reddy also could not spell out the expenditure incurred by the respondents for developing and maintaining the park. He, however, agreed that the respondents have to spend certain amount for upkeep and maintenance of the park and also that generally the persons using the K.B.R. National park and his client do not make any contribution for the development of the park and its maintenance.

We can take judicial notice of the fact that the respondents are required to spend substantial amount for developing, maintenance and upkeep of the park and surrounding areas. Therefore, it is reasonable for them to fix fee from the users of the park and we see no justification whatsoever to entertain this petition in the name of public interest litigation. In our opinion, unless the citizens like the petitioner make

contribution for maintenance and upkeep of parks and help the State apparatus to keep the atmosphere clean, they cannot complain against the charging of fee for entry in the parks and similar other facilities.

With the above observations, the writ petition is dismissed.

G.S.SINGHVI, CJ

G.V.SEETHAPATHY, J

27th July, 2006
svs

---

[1] (1992) DLT 421 SC